



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,777	11/19/2001	Craig Nemecek	CYPR-CD01208M	2046
45545 7590 09/15/2008 CYPRESS C/O MURABITO, HAO & BARNES LLP TWO NORTH MARKET STREET THIRD FLOOR SAN JOSE, CA 95113				
EXAMINER				
JACOB, MARY C				
ART UNIT		PAPER NUMBER		
2123				
MAIL DATE		DELIVERY MODE		
09/15/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Notice of Allowability****Application No.**

09/989,777

**Applicant(s)**

NEMECEK, CRAIG

**Examiner**

MARY C. JACOB

**Art Unit**

2123

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed 7/26/08.
2. ☒ The allowed claim(s) is/are 1-3,5-12,15-25,27 and 28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 7/26/08
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

**DETAILED ACTION**

1. The response filed 7/26/08 has been received and considered. Claims 1-3, 5-12, 15-25, 27 and 28 are presented for examination.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 7/26/08 has been entered.

***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on 7/26/08 was filed after the mailing date of the Notice of Allowance on 7/7/08. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

**EXAMINER'S AMENDMENT**

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Amir A. Tabarrok, Reg. No. 57,137 on 6/23/08.

The application has been amended as follows:

The first paragraph of the specification has been amended as follows:

Line 3, --issued as US Patent 6,957,180,-- has been inserted after "November 15, 2001,"

Line 4, --issued as US Patent 6,922,821,--has been inserted after "November 15, 2001"

Line 5, --issued as US Patent 7,206,733,-- has been inserted after "October 10, 2001"

Line 7, --issued as US Patent 7,089,175,-- has been inserted after "filed November 1, 2001"

Line 7, --issued as US Patent 7,162,410,-- has been inserted after "filed November 14, 2001"

Line 8, --issued as US Patent 7,236,921,-- has been inserted after "filed November 14, 2001"

Line 8, --issued as US Patent 7,185,321,-- has been inserted after "filed March 29, 2002"

Line 9, -issued as US Patent 6,922,821,-- has been inserted after "filed November 15, 2001"

Line 10, --issued as US Patent 7,099,818,-- has been inserted after "filed March 29, 2002"

### ***Allowable Subject Matter***

5. Claims 1-3, 5-12, 15-25, 27 and 28 are allowed for the reasons recited in the 7/7/08 Office Action.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY C. JACOB whose telephone number is (571)272-6249. The examiner can normally be reached on Tuesday-Thursday 7AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez can be reached on 571-272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mary C Jacob/  
Examiner, Art Unit 2123

/M. C. J./  
9/10/08

/Paul L Rodriguez/  
Supervisory Patent Examiner, Art Unit 2123